

to successive events and transactions, (vi) all references to any period of days shall be deemed to be to the relevant number of calendar days, (vii) all references to the word “shares” shall be deemed also to refer to fractions of shares, as the context requires, (viii) “Dollars” or “\$” means United States Dollars, (ix) “cash” means Dollars in immediately available funds and (x) the phrase “the date hereof” means the date of this Agreement.

(b) The Article, Section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(c) This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted.

Section 8.4. Knowledge. For purposes of this Agreement, the knowledge of (a) EchoStar and its Subsidiaries shall mean the knowledge, after due inquiry, of the senior officers of EchoStar and its Subsidiaries and (b) Hughes shall mean the knowledge, after due inquiry, of the senior officers of Hughes and its Subsidiaries.

Section 8.5. Counterparts. This Agreement may be executed in counterparts, which together shall constitute one and the same Agreement. The parties may execute more than one copy of the Agreement, each of which shall constitute an original.

Section 8.6. Entire Agreement; Severability.

(a) This Agreement (including the documents and the instruments referred to herein) and the Confidentiality Agreement contain the entire agreement between the parties with respect to the subject matter hereof and supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the parties other than those set forth or referred to herein or therein.

(b) If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the parties.

Section 8.7. Third Party Beneficiaries. Except as set forth in Section 5.3(f) hereto, the provisions of this Agreement are solely for the benefit of the parties and are not intended to confer upon any Person except the parties any rights or remedies hereunder and there are no third party beneficiaries of this Agreement and this Agreement shall not provide any third Person with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 8.8. Governing Law. Except to the extent the provisions of the NRS govern the Merger, this Agreement shall be governed and construed in accordance with the laws of the State of Delaware without regard to principles of conflicts of law. Each of the parties hereto agrees that this Agreement has been entered into by the parties in express reliance upon 6 Del. C. Sec. 2708.

Section 8.9. Jurisdiction. Any suit, action or proceeding seeking to enforce an provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated by this Agreement may be brought against any of the parties in any Federal court located in the State of Delaware, or any Delaware state court. Each party irrevocably and unconditionally agrees (a) to be subject to the jurisdiction of the courts of the State of Delaware and of the federal courts sitting in the State of Delaware, and (b) (1) to the extent such party is not otherwise subject to service of process in the State of Delaware, to appoint and maintain an agent in the State of Delaware as such party's agent for service of legal process and (2) that service of process may also be made on such party by prepaid certified mail with a proof of mailing receipt validated by the United States Postal Service constituting evidence of valid service, and that service made pursuant to (b) (1) or (2) above shall have the same legal force and effect as if served upon such party personally within the State of Delaware. For purposes of implementing the parties' agreement to appoint and maintain an agent for service of process in the State of Delaware, each such party does appoint [name] [address], as such agent. Without limiting the generality of the foregoing, each party hereto agrees that service of process upon such party at the address referred to in Section 8.2, together with written notice of such service to such party, shall be deemed effective service of process upon such party.

Section 8.10. Specific Performance. Except under such circumstances as cause a termination fee to be payable pursuant to Section 7.2 by any of the parties hereto based on such breach or threatened breach, the parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Accordingly, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the party or parties who are or are to be thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief of its rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. Any requirements for the securing or posting of any bond with such remedy are waived.

Section 8.11. Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other party; provided, however, that, in connection with the Financings, either party may assign all or any part of its rights under this Agreement to any Person required by such party's financing sources in order to secure such party's obligations to such financing sources. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

\* \* \* \* \*

IN WITNESS WHEREOF, each of the undersigned, intending to be legally bound, has caused this Agreement to be duly executed and delivered on the date first set forth above.

**ECHOSTAR COMMUNICATIONS  
CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**HUGHES ELECTRONICS  
CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXECUTION COPY**

**IMPLEMENTATION AGREEMENT**

**by and among**

**GENERAL MOTORS CORPORATION,**

**HUGHES ELECTRONICS CORPORATION**

**and**

**ECHOSTAR COMMUNICATIONS CORPORATION**

Dated as of October 28, 2001

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## IMPLEMENTATION AGREEMENT

This Implementation Agreement (this "Agreement") is made and entered into as of October 28, 2001, by and among Hughes Electronics Corporation, a Delaware corporation ("Hughes"), General Motors Corporation, a Delaware corporation that owns directly all of the issued and outstanding capital stock of Hughes ("GM"), and EchoStar Communications Corporation, a Nevada corporation ("EchoStar").

WHEREAS, Hughes and EchoStar desire to combine the business of EchoStar with the Hughes Business (as defined below), following the separation of Hughes from GM, pursuant to a merger of EchoStar with and into Hughes, with Hughes as the surviving corporation (the "Merger"), as contemplated by the Merger Agreement (as defined below); and

WHEREAS, it is a condition to the Merger that, at the time of the consummation of the Merger, the Hughes Recapitalization (as defined below) and the Spin-Off (as defined below) be completed and that Hughes be an independent, publicly owned company comprising the Hughes Business, separate from and no longer wholly owned by GM; and

WHEREAS, subject to the terms and conditions set forth in the PanAmSat Stock Purchase Agreement (the "PanAmSat Stock Purchase Agreement"), entered into by and among Hughes, Hughes Communications, Inc., a California corporation and an indirect wholly owned subsidiary of Hughes ("HCI"), Hughes Communications Galaxy, Inc., a California corporation and an indirect wholly owned subsidiary of Hughes ("HCG"), and Hughes Communications Satellite Services, Inc., California corporation and an indirect wholly owned subsidiary of Hughes ("HCSS"), concurrently with the execution and delivery of this Agreement, in the form attached hereto as Exhibit A, HCI, HCG and HCSS have agreed to sell to EchoStar, and EchoStar has agreed to purchase from HCI, HCG and HTSC (such transaction, the "PanAmSat Stock Sale"), all of the shares of capital stock of PanAmSat Corporation, a Delaware corporation ("PanAmSat"), owned by HCI, HCG and HCSS, in accordance with the terms and conditions set forth in the PanAmSat Stock Purchase Agreement; and

WHEREAS, immediately prior to the Spin-Off, Hughes shall distribute to GM, in respect of GM's ownership interest in Hughes, the Cash Dividend (as defined in the GM/Hughes Separation Agreement (as defined below)), and, if and to the extent of any shortfall in funds available to Hughes to pay in full the Cash Dividend, the Demand Note (as defined in the GM/Hughes Separation Agreement), and in connection with such dividend the denominator (the "Denominator") of the fraction described in Article Fourth, Division I, Section (a)(4) of the Restated Certificate of Incorporation of GM, as amended (the "GM Certificate of Incorporation"), will be reduced as contemplated by the GM/Hughes Separation Agreement (the "Hughes Recapitalization"); and

WHEREAS, at any time after the date of this Agreement and prior to the date that is six (6) months after the Spin-Off Effective Time (as defined in the Merger Agreement), GM may, pursuant to one or more transactions, issue shares of GM's Class H Common Stock, par value \$0.01 per share (the "GM Class H Common Stock"), or distribute shares of Class C Common Stock of Hughes, par value \$0.01 per share (the "Hughes Class C Common Stock") (any such shares of GM Class H Common Stock

or Hughes Class C Common Stock distributed by GM, the "Exchange Shares"), up to an aggregate of one hundred million (100,000,000) Exchange Shares (subject to reduction pursuant to the GM/Hughes Separation Agreement and subject to increase by up to an additional fifty million (50,000,000) Exchange Shares (but in no event shall such increase exceed One Billion Dollars (\$1,000,000,000.00)) in accordance with Section 5.1(h) hereof, to holders of certain outstanding debt obligations of GM ("Exchange Debt") in exchange for such Exchange Debt (any such exchange, a "GM Debt/Equity Exchange"); and

WHEREAS, immediately following the Hughes Recapitalization, (i) GM, pursuant to provisions to be implemented by means of an amendment of the GM Certificate of Incorporation, shall distribute to the holders of record of GM Class H Common Stock shares of Hughes Class C Common Stock in exchange for all of the outstanding shares of GM Class H Common Stock in accordance with the GM Certificate of Incorporation, as amended in connection with the Hughes Recapitalization, and the GM Class H Common Stock will be redeemed and canceled, (ii) in connection therewith, GM shall distribute to holders of record of GM's Series H 6.25% Automatically Convertible Preference Stock, par value \$0.10 per share (the "GM Series H Preference Stock"), shares of Preference Stock, par value \$0.10 per share, of Hughes (the "Hughes Preference Stock"), in exchange for all of the outstanding shares of GM Series H Preference Stock in accordance with the Certificate of Designations relating to the GM Series H Preference Stock and the GM Series H Preference Stock will be canceled, and (iii) GM shall, subject to Section 5.2(h) of this Agreement, either retain, or, immediately following the redemption of shares of GM Class H Common Stock in exchange for shares of Hughes Class C Common Stock as described in clause (i) above, distribute by means of a dividend to the holders of record of GM's Common Stock, par value \$1-2/3 per share (the "GM \$1-2/3 Common Stock"), in respect of all outstanding shares of GM \$1-2/3 Common Stock, the remaining shares of Hughes Class C Common Stock held by GM and not previously distributed to the holders of record of GM Class H Common Stock, in each case as provided in this Agreement (the transactions described in clauses (i) through (iii) above being referred to herein collectively as the "Spin-Off"); and

WHEREAS, consummation of the Hughes Recapitalization and the Spin-Off is conditioned on, among other things, the approval by the holders of a majority of the outstanding shares of GM \$1-2/3 Common Stock and GM Class H Common Stock, each voting as a separate class and both voting together as a single class based on their respective per share voting power, of this Agreement, the GM/Hughes Separation Agreement and the transactions contemplated hereby and thereby, including the GM Charter Amendment (as defined below), the Hughes Recapitalization and the Spin-Off (collectively, the "GM Transactions"); and

WHEREAS, a certain lender has delivered a commitment letter to Hughes and EchoStar pursuant to which it has committed to lend to Hughes or the Surviving Corporation (as defined in the Merger Agreement) up to Five Billion Five Hundred Twenty Five Million Dollars (\$5,525,000,000.00) for the purpose of financing the Recapitalization Amount (as defined in the GM/Hughes Separation Agreement), refinancing certain outstanding indebtedness in connection with the consummation of the

Merger and financing the combined business of Hughes and EchoStar following the Merger (the "Merger Financing") on the terms set forth in the commitment letter attached hereto as Exhibit B or in any similar commitment or financing letter or other agreement replacing, and having substantially the same effect as, such commitment letter and reasonably acceptable to Hughes (in either case, the "Merger Commitment Letter"); and

WHEREAS, GM, Hughes, EchoStar and The Samburu Warrior Revocable Trust, a trust as to which Charles W. Ergen is the sole trustee (the "EchoStar Controlling Stockholder"), are concurrently entering into that certain Supplemental Agreement & Guaranty (the "Supplemental Agreement"), in the form attached hereto as Exhibit C, relating to the commitment of EchoStar to use its best efforts to assist Deutsche Bank, A.G., New York, in obtaining commitments from nationally recognized banking institutions to provide for an additional amount of financing such that the aggregate amount of financing to be obtained pursuant to the Merger Financing (including financing arranged pursuant to any co-arrangements with co-arrangers as contemplated by the provisions of the Merger Commitment Letter) shall be in the amount of at least Five Billion Five Hundred Twenty Five Million Dollars (\$5,525,000,000.00), and, in connection therewith, the EchoStar Controlling Stockholder has pledged certain shares of EchoStar stock to GM pursuant to that certain Pledge Agreement (the "Pledge Agreement"), executed by the EchoStar Controlling Stockholder and GM concurrently with the Supplemental Agreement, in the form attached hereto as Exhibit D; and

WHEREAS, the Merger Financing will be consummated (i) in accordance with one or more credit agreements (collectively, the "Merger Financing Agreement") to be entered into by and among Hughes, EchoStar and the lenders parties thereto as soon as reasonably practicable following the date hereof based on the terms set forth in the Merger Commitment Letter and/or (ii) with the proceeds from one or more private placements or public offerings of debt or equity securities of EchoStar as contemplated herein; and

WHEREAS, pursuant to the Merger Commitment Letter, a certain lender has committed to lend to EchoStar up to One Billion Nine Hundred Million Dollars (\$1,900,000,000.00) for the purpose of consummating the PanAmSat Stock Sale (the "PanAmSat Purchase Financing"); and

WHEREAS, the PanAmSat Purchase Financing will be consummated (i) in accordance with a credit agreement (the "PanAmSat Financing Agreement") to be entered into by and among EchoStar and the lenders parties thereto as soon as reasonably practicable following the date hereof based on the terms set forth in the Merger Commitment Letter and/or (ii) with proceeds from one or more private placements or public offerings of debt or equity securities of EchoStar as contemplated herein; and

WHEREAS, the EchoStar Controlling Stockholder, acting by written consent immediately after the execution of the Merger Agreement, shall have executed and delivered to EchoStar a written consent as the controlling stockholder of EchoStar (the "EchoStar Stockholder Consent"), in the form

attached hereto as Exhibit E, adopting and approving the Merger Agreement, and, as a result of the EchoStar Stockholder Consent, no further approval of the Merger Agreement by the EchoStar Board of Directors or the EchoStar stockholders will be required in order to consummate the Merger; and

WHEREAS, the Hughes Recapitalization will occur pursuant to the Separation Agreement (the "GM/Hughes Separation Agreement") entered into by and between GM and Hughes concurrently with the execution and delivery of this Agreement, in the form attached hereto as Exhibit F, and certain other matters relating to the separation of Hughes from GM will be implemented pursuant to certain other agreements contemplated therein, including (i) the GM/Hughes Tax Agreements (as defined in the GM/Hughes Separation Agreement) previously entered into by and among GM, Hughes and certain other parties thereto or entered into by and between GM and Hughes concurrently with the execution and delivery of this Agreement, as applicable, and (ii) the Intellectual Property Agreement (the "GM/Hughes Intellectual Property Agreement") entered into by and between GM and Hughes concurrently with the execution and delivery of this Agreement, in the form attached as Exhibit A to the GM/Hughes Separation Agreement; and

WHEREAS, the Spin-Off will occur as contemplated by this Agreement; and

WHEREAS, immediately after the Spin-Off and subject to satisfaction of the conditions precedent thereto, the Merger will occur pursuant to an Agreement and Plan of Merger (the "Merger Agreement") entered into by and among EchoStar and Hughes concurrently with the execution and delivery of this Agreement, in the form attached hereto as Exhibit G; and

WHEREAS, the parties intend the Spin-Off to qualify as a distribution of Hughes stock to GM stockholders with respect to which no gain or loss will be recognized pursuant to Section 355 and related provisions of the Internal Revenue Code of 1986, as amended, together with the rules and regulations promulgated thereunder (the "Code"), by GM, Hughes and their respective stockholders; and

WHEREAS, the parties intend the Merger to qualify as a reorganization described in Section 368(a) of the Code; and

WHEREAS, (i) the respective Boards of Directors of GM, Hughes, and EchoStar have determined that the Merger is advisable, desirable and in the best interests of their respective stockholders, (ii) the respective Boards of Directors of Hughes and EchoStar have approved the Merger Agreement and the other agreements referred to therein to which each is a party, as applicable, (iii) the respective Boards of Directors of GM, Hughes and EchoStar have approved this Agreement and the other agreements referred to herein to which each is a party, as applicable, (iv) the respective Boards of Directors of GM and Hughes have approved the Implementation Agreement and the GM/Hughes Separation Agreement and the other agreements referred to therein to which each is a party, (v) the Board of Directors of GM has approved the GM Transactions, including the GM Charter Amendment, and has determined, subject

to its fiduciary duties under Applicable Law (as defined below), to recommend that its stockholders approve and adopt the GM Transactions as contemplated herein, (vi) the Board of Directors of Hughes has recommended that its stockholders approve and adopt the Merger Agreement and GM shall have, in its capacity as the sole stockholder of Hughes, at a meeting to be held after the execution of the Merger Agreement, adopted and approved the Merger Agreement, (vii) the Board of Directors of EchoStar has recommended that its stockholders approve and adopt the Merger Agreement and the EchoStar Controlling Stockholder shall have, in his capacity as controlling stockholder of EchoStar, acting by written consent immediately after the execution of the Merger Agreement, adopted and approved the Merger Agreement such that the EchoStar Stockholder Approval (as defined in the Merger Agreement) shall have been obtained, and (viii) the Board of Directors of Hughes has approved the Hughes Charter Amendments (as defined below) and GM shall have, in its capacity as the sole stockholder of Hughes, at a meeting to be held immediately after the execution of this Agreement, adopted and approved the amendment of the Hughes Certificate of Incorporation constituting a part of the Hughes Charter Amendments;

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereby agree as follows:

## ARTICLE 1

### THE GM TRANSACTIONS

Section 1.1. GM Board Approval of the GM Transactions. GM's Board of Directors, at a meeting duly convened and held on October 28, 2001, (a) determined that, as of such date, the execution, delivery and performance of this Agreement by GM and the consummation of the transactions contemplated hereby would be advisable, desirable and in the best interests of GM and its stockholders and that, as of such date, consummation of the GM Transactions would be fair to the holders of GM \$1-2/3 Common Stock and the holders of GM Class H Common Stock; (b) approved this Agreement and the transactions contemplated hereby; and (c) determined, subject to its fiduciary duties under Applicable Law, to recommend the GM Transactions as fair to the holders of GM \$1-2/3 Common Stock and the holders of GM Class H Common Stock and to recommend and submit the GM Transactions for their approval. In connection with this determination, each of Merrill Lynch, Pierce, Fenner & Smith Incorporated and Bear, Stearns & Co. Inc. (the "GM Financial Advisors") has provided its written opinion, dated as of such date and addressed to the Board of Directors of GM (the "GM Financial Advisor Fairness Opinions"), to the effect that, as of such date and taking into account all relevant financial aspects of the GM Transactions and the Merger (together, the "Transactions") and certain other related transactions, taken as a whole, the consideration to be provided to GM and its subsidiaries and to the holders of GM \$1-2/3 Common Stock (if applicable) and the holders of GM Class H Common Stock in the GM Transactions

is fair, from a financial point of view, to the holders of GM \$1-2/3 Common Stock and the holders of GM Class H Common Stock. In addition, each of Goldman, Sachs & Co. and Credit Suisse First Boston Corporation (the "Hughes Financial Advisors") has provided its written opinion, dated as of such date and addressed to the Board of Directors of GM and to the Board of Directors of Hughes, to the effect that, as of such date and based on market conditions at such time, the exchange ratios contemplated by the Merger Agreement are fair, from a financial point of view, to the holders of Hughes Class C Common Stock immediately prior to the Merger, including GM and the holders of GM 1-2/3 Common Stock and GM Class H Common Stock, as applicable.

Section 1.2. GM Stockholder Approval of the GM Transactions.

(a) GM's Obligations Relating to the Stockholder Approval Process. In addition to the obligations of GM and Hughes set forth in Section 5.1(g) below with respect to the preparation and filing of the Spin-Off/Merger Registration Statement (as defined below), subject in all cases to the other provisions of this Section 1.2 and to Section 1.3 below, GM shall, at such times as it shall reasonably determine, consistent with its obligations under Section 5.1 below, following the satisfaction or waiver of each and all of the conditions set forth in Section 1.3 below:

(i) take all other action, in accordance with the U.S. federal securities laws, the Delaware General Corporation Law (as amended from time to time, the "DGCL"), all other Applicable Law, its certificate of incorporation, its bylaws and the policy statement of its Board of Directors regarding certain capital stock matters (a copy of which has been heretofore provided to EchoStar) (the "GM Board Policy Statement"), necessary to present the GM Charter Amendment, the Hughes Recapitalization and all other aspects of the GM Transactions, including the Spin-Off, to the holders of GM \$1-2/3 Common Stock and GM Class H Common Stock for their consideration and in order to seek the Requisite Stockholder Approval (as defined below) of the GM Transactions;

(ii) include in a proxy statement or consent solicitation statement of GM to be distributed to GM's common stockholders in connection with the GM Transactions (as amended and supplemented from time to time, the "GM Proxy/Consent Solicitation Statement") the recommendation of its Board of Directors in favor of the GM Transactions;

(iii) mail the GM Proxy/Consent Solicitation Statement to its common stockholders (the date on which such mailing is commenced being referred to herein as the "Mailing Date"); and

(iv) use commercially reasonable efforts, in accordance with the U.S. federal securities laws, the DGCL and all other Applicable Law, to solicit from its common stockholders entitled to vote thereon, as determined by GM in its sole and absolute discretion, either (A) proxies to be voted at a stockholders meeting or (B) written consents to be obtained in connection with a consent solicitation,

in each case sufficient under Applicable Law to constitute the Requisite Stockholder Approval of the GM Transactions.

(b) Non-Recommendation Determination. If GM's Board of Directors shall have determined, in good faith and upon advice of legal counsel, that, in accordance with its fiduciary duties under Applicable Law, either (i) it cannot or will not be able to recommend the GM Transactions to its common stockholders for their approval or (ii) after having recommended to its common stockholders approval of the GM Transactions, it is required to withdraw, revoke or modify in any adverse manner such recommendation (in either case, a "Non-Recommendation Determination"), GM shall promptly provide written notice thereof to EchoStar (a "Notice of Non-Recommendation"), in which event GM shall not be required to take or continue any of the actions set forth in Section 1.2, and, subject to Section 1.2(c) and Section 1.2(e), the provisions of Sections 7.1(c)(viii) and 7.1(d)(vi) of the Merger Agreement shall apply.

(c) Notice of Proposed Mailing. At any time after delivering a Notice of Non-Recommendation that has not been withdrawn pursuant to Section 1.2(e), GM may deliver a written notice to EchoStar that GM proposes to mail the GM Proxy/Consent Solicitation Statement and submit the GM Transactions to its common stockholders for their consideration notwithstanding such Non-Recommendation Determination (a "Notice of Proposed Mailing"); provided, that GM shall not deliver a Notice of Proposed Mailing unless GM shall have determined, in good faith and upon advice of legal counsel, that taking into account such Non-Recommendation Determination and the fiduciary duties of its Board of Directors under Applicable Law, (A) GM is authorized under the DGCL to mail the GM Proxy/Consent Solicitation Statement and submit the GM Transactions to its common stockholders and (B) the receipt of the Requisite Stockholder Approval (if received) would result in the GM Transactions being duly authorized by all necessary corporate action on the part of GM. In the event that GM delivers a Notice of Proposed Mailing, the provisions of Sections 7.1(c)(viii) and 7.1(d)(vi), as the case may be, of the Merger Agreement shall, commencing five (5) Business Days (as defined below) after such delivery, no longer apply as a result of such Notice of Non-Recommendation and the parties' right to terminate the Merger Agreement pursuant to Sections 7.1(c)(viii) and 7.1(d)(vi), as the case may be, thereof as a result of such Notice of Non-Recommendation shall terminate, in which case GM shall be required to mail the GM Proxy/Consent Solicitation Statement and submit the GM Transactions to its common stockholders in accordance with Section 1.2(a) notwithstanding such Non-Recommendation Determination; provided, that the GM Proxy/Consent Solicitation Statement may in such event include a recommendation that GM's common stockholders reject the GM Transactions (or no recommendation with respect to the GM Transactions) and such additional disclosure relating to the Non-Recommendation Determination as may be required in order to avoid the misstatement of a material fact or the omission of a material fact necessary to make the statements therein not misleading or as otherwise may be required in accordance with Applicable Law.

(d) Request for Confirmation. In the event that the conditions set forth in Sections 1.3(a), (c) and (d) have been satisfied for not less than ten (10) Business Days, and continue to be satisfied, but GM shall not have commenced the mailing of the GM Proxy/Consent Solicitation Statement, EchoStar may from time to time make a written request (a "Confirmation Request") that GM confirm in writing (a "Confirmation") that, as of the date of such Confirmation, GM's Board of Directors continues to recommend the GM Transactions and has a good faith intention and is prepared to submit the GM Transactions to GM's common stockholders in accordance with Section 1.2(a), and continues to take all actions in accordance with Section 5.1(a) in furtherance thereof, and is in compliance with Section 5.1(j); provided, that EchoStar may not make any Confirmation Request within ten (10) Business Days after it has received a Confirmation. If EchoStar delivers a Confirmation Request to GM in accordance with the preceding sentence, then either (i) GM shall provide a Confirmation to EchoStar within five (5) Business Days following its receipt of the Confirmation Request (a "Confirmation Period") or (ii) in the event that GM fails to provide a Confirmation to EchoStar within the applicable Confirmation Period, GM shall be deemed to have delivered a Notice of Non-Recommendation as of the end of such Confirmation Period and the provisions of Section 7.1(d)(vi) of the Merger Agreement shall apply.

(e) Withdrawal of Notice of Non-Recommendation. At any time after delivering a Notice of Non-Recommendation pursuant to Section 1.2(b) hereof, GM may deliver a written notice to EchoStar that the GM Board of Directors has determined to recommend the GM Transactions to its common stockholders for their approval and to withdraw the Notice of Non-Recommendation (a "Withdrawal Notice"). In the event that GM delivers a Withdrawal Notice, commencing five (5) Business Days after such delivery, the provisions of Sections 7.1(c)(viii) and 7.1(d)(vi) of the Merger Agreement shall no longer apply as a result of such Notice of Non-Recommendation and the parties' rights to terminate the Merger Agreement pursuant to Sections 7.1(c)(viii) and 7.1(d)(vi), as the case may be, thereof as a result of such Notice of Non-Recommendation shall terminate, in which case GM shall be required to mail the GM Proxy/Consent Solicitation Statement and submit the GM Transactions to its common stockholders in accordance with Section 1.2(a) notwithstanding such Non-Recommendation Determination.

Section 1.3. Conditions to GM's Obligations Relating to the Stockholder Approval Process. GM's obligation to take the actions set forth in Section 1.2 above is subject to the satisfaction of each and all of the following conditions (any of which, other than the condition set forth in Section 1.3(a), may be waived in whole or in part by GM, in its sole and absolute discretion, after consultation with EchoStar):

(a) the U.S. Securities and Exchange Commission (the "SEC") shall have declared the Spin-Off/Merger Registration Statement effective, all other required approvals and clearances of the Spin-Off/Merger Registration Statement and the GM Proxy/Consent Solicitation Statement shall have been received from the SEC and no stop order suspending the effectiveness of the Spin-Off/Merger Registration Statement shall be in effect and no similar restraining order shall have been entered or threatened by the SEC with respect to the Transactions;

(b) all applicable material state and foreign blue sky or securities permits or approvals required to mail the GM Proxy/Consent Solicitation Statement and take the other actions set forth in Section 1.2 above shall have been received in accordance with Applicable Law and no restraining order shall have been entered or threatened by any state securities administrator or any foreign securities administrator with respect to the Transactions;

(c) GM shall have received the Ruling (as defined in the GM/Hughes Separation Agreement); and

(d) the Merger Financing Agreement shall have been executed and shall be in full force and effect, and none of the agent banks thereunder shall have notified Hughes or EchoStar in writing that the transactions contemplated by the Merger Financing Agreement are not reasonably likely to be consummated prior to the date set forth in Section 7.1(b)(ii) of the Merger Agreement (any such notification, an "Adverse Notification") such that there is a material risk that the Merger Financing will not be available at or immediately prior to the Spin-Off Effective Time.

#### Section 1.4. Spin-Off of Hughes from GM.

(a) Subject to the consummation by GM and Hughes of the Hughes Recapitalization in accordance with the terms and conditions of the GM/Hughes Separation Agreement, including the receipt by GM of all of the dividend distributions contemplated by Section 1.1(a) of the GM/Hughes Separation Agreement in an amount equal to the Recapitalization Amount, the parties agree that, immediately following the consummation of the Hughes Recapitalization and immediately prior to the Merger, GM and Hughes shall promptly take all actions within their control legally required to effect (i) the Hughes Class C Common Stock Exchange (as defined below) and (ii) provided that the GM Series H Preference Stock shall not have been previously converted, redeemed or otherwise canceled pursuant to the Certificate of Designations relating to the GM Series H Preference Stock, substantially concurrently therewith, the Greater Spinco Preference Share Exchange (as defined below).

(b) For the purposes of this Agreement, the following terms shall have the following meanings:

(i) "GM Notional Shares" means the aggregate number determined by the Board of Directors of GM, in good faith and in accordance with the provisions of the succeeding sentence, to be the aggregate number of notional shares representing GM's retained economic interest in Hughes. The aggregate number of GM Notional Shares shall be calculated, as of any particular time, by subtracting (A) the number of shares of GM Class H Common Stock issued and outstanding as of such time from (B) the Denominator determined by the Board of Directors of GM as of such point in time rather than as an average with respect to any accounting period. Promptly following any determination by the Board of